

AMEND Senate Bill No. 1158

House Bill No. 758*

by deleting subsections (a) and (b) from Section 1 and by substituting instead the following:

(a) No person shall act as a mortgage lender, mortgage loan broker or mortgage loan servicer in this state without first obtaining a license under this chapter. Except in the case of sale of real property as provided in subsection (b), no contractor or home improvement contractor or other person who supplies materials and renders services in the improvement of real property shall engage in the business of making residential mortgage loans or of being a mortgage loan servicer or mortgage loan broker in this state.

(b)

(1) The requirement of a license under subsection (a) and this chapter do not apply to any of the following; except as provided in subdivision (b)(2):

(A) Any depository institution;

(B) Any subsidiary of a depository institution that is owned and controlled by the depository institution and regulated by a federal banking agency;

(C) Any institution regulated by the farm credit administration;

(D) Any individual who makes a residential mortgage loan to, or offers or negotiates terms of a residential mortgage loan with or on behalf of, an immediate family member of the individual;

(E) An individual who makes a residential mortgage loan, or simply offers or negotiates terms of a residential mortgage loan, when the loan is secured by a dwelling that served as the individual's residence;

(F) A licensed attorney who negotiates the terms of a residential mortgage loan on behalf of a client as an ancillary matter to the attorney's representation of the client;

(G)

(i) Any person, or person under the control of another person who, as seller, receives or makes in any consecutive twelve-month period five (5) or fewer residential mortgage loans and who does not hold themselves out to the public as being in the residential mortgage lending business;

(ii) No person shall be exempt from subsection (a) and this chapter pursuant to this subdivision (G) if such person makes more than five (5) residential mortgage loans in a consecutive twelve-month period whether such person makes such loans themselves or through another person over whom such person has control;

(iii) For purposes of this subdivision (G), if a person owns a vacant tract of real property which such person subsequently subdivides into separate tracts of real property, the sale of all such subdivided tracts shall be exempt from this chapter, regardless of the number of individual tracts sold and the number of ultimate purchasers of such tracts of real property as long as financing does not include the cost of constructing a dwelling;

(H) A person, or person under the control of a person, engaged solely in commercial real estate lending or a person, or person under the control of a person, who provides financing on property which is not and is not intended to be owner-occupied by the person receiving the financing. This exception includes, but is not limited to, a person who

provides financing for a property which will be subsequently leased or sold to a third party;

(I) Any person, or person under the control of a person, who makes a mortgage loan to an employee of such person as an employment benefit, employment incentive, or relocation package;

(J) Any person, or person under the control of a person, doing any act related to mortgage loans pursuant to an order of a court of competent jurisdiction;

(K) A person that performs only real estate brokerage activities and is licensed pursuant to the Tennessee Real Estate Broker License Act of 1973, compiled in title 62, chapter 13. Such person is permitted to communicate and include in any contract any mortgage terms agreed upon by the parties for the real property being financed without being required to be licensed under this chapter; and

(L) A person that performs land title insurance services in connection with a closing of a sale transaction and is licensed pursuant to the provisions of title 56, chapter 6 and the rules of the Tennessee department of commerce and insurance compiled at chapter 0780-1-56. Such person is permitted to communicate and include in any closing documents any mortgage terms agreed upon by the parties for the real property being financed without being required to be licensed under this chapter.

(2) This subsection (b) does not exempt a person from licensure as a mortgage loan originator if the United States Department of Housing and Urban Development or its duly designated successor has expressly determined that the person is subject to licensure as a mortgage loan originator as the term is defined in the Secure and Fair Enforcement for Mortgage Licensing Act of 2008, compiled in 12 U.S.C. § 5101, *et seq.*